IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 281 of 1988

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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MANIBEN PATEL & 2 - Appellant(s)
Versus
HARSHADKUMAR MULSHANKAR JANI & 2 - Defendant(s)

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Appearance :
MR MJ THAKORE for Appellant(s) : 1 - 3.
MR NAGIN N GANDHI for Defendant(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 01/08/2006

ORAL JUDGMENT

1. By way of this appeal the appellants have challenged the judgement and award dated 02.07.1986 passed by Motor Accident Claims Tribunal, Himmatnagar, in Motor Accident Claim Petition No. 221 of 1984 whereby the petition is partly allowed and the appellants to recover Rs. 29,900/- from all the opponents by way of compensation.

2. The short facts of the case are that on 07.01.1984 the tractor No. GUF 5806 attached with the

trolley was proceeding from Himmatnagar, and the opponent No. 1 had arrived driving his truck No. GTF 5953 from back side and collided with rear side of the trolley of the aforesaid tractor. As a result of this accident the two occupiers of the tractor had died and others had sustained injuries who were sitting in the trolley. Therefore the injured and the legal heirs of the deceased have filed claim petition for compensation in the sum of Rs. 1,00,000/- The Tribunal passed the aforesaid order and the present appeal is for enhancement.

3. Learned advocate for the appellants has submitted that the Tribunal has erred in not properly appreciating the evidence on record as per the law laid down by this Court. He further submitted that Tribunal has erred in not appreciating the fact that the none of the members of the family after the death of the deceased are in a position to till the land personally and, therefore, there is substantial loss of income from the land.

4. As a result of hearing and perusal of the record it is found that the while passing the award Tribunal has

observed at Exh. 36, which is the Post-morterm notes of the deceased, that it clearly shows that age of the deceased was 55 years. Therefore, tribunal has rightly applied the multiplier of 8 years. Further Tribunal has observed that appellants have not produced any documentary proof to show that the deceased was earning Rs. 25,000/- per year by selling the produce of his land. Further it is the consisting practice of this Court that in such type of matters in the case of agriculturists, compensation should be awarded believing that there was 15% loss in the whole income which the deceased was deriving.

5. I am in complete agreement with the reasonings adopted and the findings arrived at by the Tribunal. No case is made out to cause interference. Hence appeal is dismissed. No order as to costs.

(K.S.JHAVERI, J.)

Suresh*